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3
4 UNITED STATES DISTRICT COURT

5 Northern District of California

6
7 ELAINA SEROTTE,

No. C 10-04353 MEJ

8 Plaintiff(s),

9 **ORDER FOR CLERK OF COURT TO
REASSIGN CASE**

10 MARIN COUNTY DISTRICT ATTORNEY,

11 **REPORT & RECOMMENDATION**12 Defendant(s).
13 _____/

14 On September 27, 2010, Plaintiff Elaina Serotte filed the above-captioned case. (Dkt. #1.)
15 Although a case management conference was scheduled to take place on January 13, 2011, the Court
16 vacated the conference date on January 7, 2011, because no case management statement had been
17 filed and there was no indication that any of the defendants have been served. Accordingly, the
18 Court ordered Plaintiff to file a status report by January 20, 2011. (Dkt. #4.) Plaintiff failed to
19 respond. Based on Plaintiff's inaction, the Court ordered Plaintiff to show cause why this case
20 should not be dismissed for failure to prosecute and comply with court deadlines. The Court ordered
21 Plaintiff to file a declaration by February 24, 2011, and scheduled an order to show cause hearing on
22 March 3, 2011. (Dkt. #5.) Plaintiff again failed to respond.

23 Based on this procedural history, the Court finds it appropriate to dismiss this case pursuant
24 to Federal Rule of Civil Procedure 41(b). Under Rule 41(b), failure to comply with a court order
25 can warrant dismissal. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). In "determining
26 whether to dismiss a case for failure to comply with a court order, the district court must weigh five
27 factors including '(1) the public's interest in expeditious resolution of litigation; (2) the court's need
28 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
disposition of cases on their merits; and (5) the availability of less drastic alternatives.'" *Id.* at 1260-

1 61 (quoting *Thompson v. Housing Auth.*, 782 F.2d 829, 831 (9th Cir. 1986)). Here, Plaintiff failed to
2 comply with Court orders and deadlines, failed to respond to the order to show cause, and has made
3 no appearance in this matter since filing her complaint. Thus, the Court finds that the *Ferdik* factors
4 weigh in favor of dismissal.

5 Accordingly, because Plaintiff has yet to consent to the undersigned's jurisdiction, the Court
6 hereby ORDERS the Clerk of Court to reassign this case to a district court judge. The undersigned
7 RECOMMENDS that the newly-assigned judge dismiss this case for failure to prosecute and failure
8 to comply with the Court's deadlines and orders.

9 Pursuant to Federal Rule of Civil Procedure 72, any party may serve and file objections to
10 this Report and Recommendation within 14 days after being served.

11 **IT IS SO ORDERED AND RECOMMENDED.**

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13 Dated: February 25, 2011

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16 Maria-Elena James
17 Chief United States Magistrate Judge
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